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Application of the Principle of Technological Neutrality to the Ethical Evaluation System of Lawyers Using AI

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Abstract. Technological neutrality is when ethical rules do not discriminate among technology and regulate behaviour, outcomes and risks. AI tools such as SRL applications have become more common in legal research, drafting, due diligence, discovery and document management, creating ethical issues like hallucination, bias, lack of explainability and confidentiality, etc. The literature review in this research points to supporting perspectives that focus on current professional responsibilities and the historical context of robotics, as well as conflicting perspectives that raise concerns about AI-related risks. This is a systematic review study based on articles, law cases, ABA advisory opinions and law review articles. Thematic analysis was used to organize the findings into themes to aid in understanding. The results indicate that technological neutrality will future proof legal ethics, maintain the accountability of lawyers, foster innovation, and that the interests of clients can be protected. The discussion suggests that there is a space for AI-specific protection, but not an alternative to neutrality. Finally, the conclusion states that the ethical assessment should not lay at the heart of the technology but at the heart of lawyers' competence, their supervision, and their responsible usage of AI.

Keywords: AI Legal Ethics, Lawyer Accountability, Confidentiality, AI Supervision

1. Introduction

Technological neutrality directs ethical and legal principles towards behaviour, function, risk and outcome rather than first the novelty of a technology and later the ethical or legal implications. AI is being integrated into legal research and writing, due diligence, discovery, document management, predictions, and translation, thereby creating new ethical concerns for lawyers. The issue is that AI is rapidly being adopted, yet existing legal frameworks were not specifically developed to address the unique challenges posed by AI like hallucination, opacity, bias, and breaches of confidentiality. The questions that arise now are whether existing professional obligations, such as, competence, confidentiality, communication, reasonable fees, and supervision are adequate to regulate the use of AI in legal work. The purpose of this research is to analyze the application of the principle of 'technological neutrality' in ethics evaluation system models applied to lawyers who use AI. The study aims to categorize key literature, judicial decisions, and ABA guidance on the ethics of using AI tools to solve legal problems, and to draw conclusions and suggestions for ethically using AI in the practice.

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2. Literature review

2.1. Existing professional duties already apply to AI-assisted lawyer practices

AI-assisted lawyer Practices are subject to the same profession duties already in place. Technological neutrality serves AI ethics, as it has always been the duty of lawyers to focus on the quality of the representation, not the type of product they create. The existing duties of lawyers already regulate the use of AI because competence, confidentiality, communication, supervision, meritorious claims, alignment with the tribunal and reasonable fees are all considerations in using generative AI [1]. Competence in technology is also defined by competence in AI technologies that are applicable to the legal profession [2]. The same ethical test that would apply to any technique should be applied to a lawyer who used AI to finish legal research or a draft, namely whether the lawyer was the 'exercising in due diligence of his legal knowledge, skill, judgment and preparation. Although the use of AI has grown in relevance for legal research, legal drafting, contract management, and litigation strategy, lawyers need to continue utilizing the Model Rules as guidance when applying AI [3]. Hence, technical neutrality is compatible with legal ethics as it maintains lawyers' responsibility and enables evolution of the tools of working practice.

This view is also justified by the history of the development of technology in the field of legal research. Internet research, computerized legal research, e-discovery, and outsourcing have already been understood by the courts and practitioners as fundamentally changing the method of legal practice rather than diminishing the fundamental obligations of a lawyer. In *Smith v. Lewis*, the court ruled that lawyers have a duty to be familiar with the general rules of the law, and to learn or research any other rules they can using normal legal methods [4]. The court in *Hagopian v. Justice Administrative Commission* noted that the lawyers relied on computer-assisted legal research to maintain a complete and up-to-date research [5]. According to Margolis, the way of research is not as important as the controlling authority supplied by the lawyer, and this directly affects the possibility of a technology neutral approach [6]. Thus, AI can be viewed as an additional legal working method, but only if the lawyer verifies its outputs and accepts professional responsibility.

2.2. AI is uniquely risky because of hallucination and opacity

The first opposition is that technology neutrality is not sufficient as the generative AI produces fluent but false legal content. Despite being touted as more trustworthy than general chatterbots, some of the top legal AI research tools still had down error rates ranging from 17% to 33% [7]. Dahl et al. discovered that the general LLMs yielded legal hallucinations at extremely high rates on specific questions regarding federal cases [7]. AI is no longer just a typewriter, search engine, or word processor since it can now produce legal precedents that never existed. After an opponent failed to perform reasonable verification, the Mata court labelled the summaries "gibberish" and imposed sanctions [8]. Therefor e, critics contend that conventional technological neutrality is insufficient because of the threat of 'persuasive' legal fiction so that moral obligations become essential for AI.

A related argument is that AI opacity makes common competence rules too general. Shope states that lawyers and judges require documentation of the AI datasets and models underlying the tools, as they are unable to meaningfully understand AI tools if they are not made transparent by their providers [2]. AI policy also needs to take account of this unique challenge of machine learning systems, which are opaque, unpredictable, and have emergent effects, explains [9]. Where lawyers are unable to know the data, the way a tool is designed, trained, or used, and whether a tool has

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limitations, "be competent" might not be enough guidance on matters of ethics. Nunez notes that AI cannot come to a moral decision like a lawyer does when making professional choices [10]. As such, opponents argue that AI necessitates non-technological obligations for the ability to explain, audit and disclose.

2.3. AI may reproduce bias and weaken professional judgment

The reviewed literature shows that putting on a neutral face can conceal bias and using AI as a neutral resource. Barocas and Selbst describe how disparate impact can be reproduced by data mining, when inequality is embedded in a seemingly neutral dataset or when a proxy variable is embedded in it [11]. Similarly, Katyal provides a detailed account of how bias can creep into AI processes in three ways, that is, at the input, training, and categorization processes, which makes private accountability challenging [12]. However, biased outputs from these areas of using AI by lawyers for litigation prediction, risk analysis, recruitment, screening, or legal strategy may impact access to justice and equal treatment. Judges and lawyers must be aware of the issue of bias in AI as biased AI models can negatively affect fairness and impartiality [2]. As such, the critics suggest that AI-specific testing is required along with AI bias controls to ensure that structural harms inherent in data systems are not neglected.

Another issue is that over time, AI could start to diminish the lawyer's professional judgment. AI performs poorly on concepts, open-endedness, value judgments, policy issues, judgment issues, and meaning from the human point of view [13]. Wendel further claims that the legal act cannot be boiled down to its computational prediction of a linguistic "feel" [14]. Lawyers who depend on generative AI for analysis, drafting, and advice might be writing behind the wheel of a machine, not serving as professional advisers. Rogers and Bell say that AI puts lawyers to the test with regard to their ethics and responsibilities as providers of the discipline, not just passive consumers [15]. So, critics state that an ethical framework for AI is required to maintain the integrity of the profession, logical arguments, and human responsibility.

3. Methodology

A systematic review of literature approach was used to review literature already available and compile its contents to familiarize the researchers with the gathered information. The sources of data were peer-reviewed journal articles, authoritative reports on AI in law, law review articles, peer reviewed law review articles, legal cases, and ABA formal opinions. Literature was chosen based on relevance, and accessibility, to include credible and up-to-date sources. Thematic analysis and identification of common themes, arguments and ethical issues that were present in the sources has been used in analytical procedure. Findings were themed to enable a systemic integration of evidence in the discussion and conclusions.

4. Results

4.1. Technological neutrality future-proofs legal ethics

Technological neutrality is a helpful feature since the ethics of AI will keep advancing rapidly and it is difficult to imagine they could be penned to any new platform, model, or interface. According to Koops, there are many attributes to a technology neutral regulation, including effects, functional equivalence, non-discrimination between technologies, and future proofing legal rules [16]. Also,

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Greenberg clarifies the term rule neutrality and its significance in helping to provide rules that apply across technology change in the event that there is the same conduct or risk [17]. New applications of AI, such as technology-assisted review, legal analytics, contract review, generative AI, and retrieval-augmented research systems, are being used by lawyers, which may lead to the rules for these to tools becoming outdated rapidly. Although the concept of technological neutrality aims for potentially equal application of a technology over the longer term, it requires flexibility when risks vary across technologies [18]. Thus, a neutral ethical system would be strengthened in that it would assess if professional obligations are being fulfilled, not on the basis of a short list of named technologies.

Future-proofing will also ensure that regulators do not discriminate between legal technology providers. While Reed does not accept the "tech neutrality" slogan as unconditional, he does acknowledge that this is a significant outcome of technology regulation [19]. Technological neutrality is well recognised but not very well understood, as seems to imply that it should not be rejected but rather explained [20]. From the ethical perspective of the law, this would mean that AI should not be assumed to be ethical or unethical just because it is AI. As Maxwell and Bourreau, puts it, one definition of neutrality is to apply the same regulations to both technologies [21]. Technological neutrality provides a foundation for bar associations and courts to manage technology while retaining their ethical responsibility.

4.2. Lawyer accountability and supervision remain central

Technological neutrality is particularly apt as professional ethics locates the ultimate responsibility for the use of the tool with the lawyer, not the tool itself. According to ABA Analysis, lawyers can utilize generative AI as a starting point to begin legal work processes, but they cannot use AI as the last line of defence on tasks that require professional judgment [1]. Wendel points out that although AI promises great predictive capabilities and may produce text, lawyering also demands normative decisions, and there are no normative algorithms [14]. Furthermore, Rogers and Bell claim that AI assesses the ethical skills and motivations of lawyers, thereby reinforcing the fact that the central subject matter is the person of the human lawyer [15]. As a result, the model of evaluation must involve the question of how the lawyer controlled the process responsibly using the AI tool.

The AI fake-citation cases also reinforce the technologic neutrality principle, with judges holding lawyers accountable for not verifying, being truthful, or carefully monitoring the submissions they receive, while not calling out the existence of AI. In *Mata v. Avianca, Inc.*, the court sanctioned lawyers who relied on fake AI-generated cases without adequate inquiry and continued to stand by false authorities [8]. In *Park v. Kim*, the Second Circuit referred counsel to its grievance panel after a brief cited a non-existent case generated through ChatGPT [22]. A similar instance was repeated in *Ayinde v London Borough of Haringey*; *Al Haroun v Qatar National Bank,* in which the judge emphasized that AI is not meant to replace humans and the importance of human responsibility and oversight [23]. In *Zhang v. Chen (2024 BCSC 285)*, the British Columbia Supreme Court found that fake AI-generated cases are an abuse of process and the equivalent of a false statement to the court [24]. The cases demonstrate how AI misconduct can be examined without sacrificing the technological neutrality of ordinary duties of competence, and court integrity that are performed by humans.

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4.3. Neutrality allows innovation while protecting clients

Technological neutrality further enables innovative legal practice in a responsible manner, as AI enables greater efficiencies, cost better control and access to legal services when used sensibly by legal professionals. AI can support lawyers in areas of legal research, contract review, due diligence and regulatory compliance, as well as document review, drafting, and legal work [13]. However, in law, AI can help in tasks involving pattern recognition, classification, prediction, and information retrieval, but can be inappropriate for tasks involving judgment [14]. If it is unclear how to use AI responsibly or ethically then it will reduce the incentive for the use of any tools that could be beneficent, where their output is checked by a lawyer and used in the client's interests. According to Legg and Bell, lawyers need not be replaced by AI; they must be complemented by AI to create a better legal service [25]. Thus, it is better to have a technological neutrality, which allows innovation, but imposes on lawyers the same ethical obligations towards the client.

Neutrality also helps to facilitate assessment of fee and value of clients. Under ABA Formal Opinion 512, the bills can be for only actual time, while attorney time to review AI output for accuracy/completeness may be charged [1]. This is a technology neutral use of responsibility to charge a reasonable fee; the assessment is on the fairness of service to the client not the type of software. ABA Formal Opinion 93-379 also holds that the lawyer who bills by the hour should not bill more time than was actually spent whether the efficiency is from AI, using templates or another tool [24]. A study by Terzidou finds that while lawyers with first-hand experience with generative AI report improvements in efficiency, there are mixed sentiments regarding training, confidentiality, and verification requirements [26]. Thus, technological neutrality aims to safeguard the client by examining the reasonableness of fees, disclosure, and quality on a contextual basis.

4.4. AI creates special confidentiality and privilege risks

Also, the reviewed literature shows that generative AI complicated confidentiality issues that traditional ethical guidelines do not have a lot of specificity around. As lawyers prepare to use generative AI tools, they should consider the "likelihood of disclosure to or access by a third party not party to the Firm" [1]. Also, lawyers may unwittingly disclose confidential client information to third parties if they instruct generative AI systems and grant third-party systems access to client information [26]. It may be more of a risk than normal outsourcing as some have inputs which are retained, re-used or trained. However, AI systems can also pose future legal and technical risks because their processes and data usage may be hard to discern or manage [27]. Thus, without also adding AI-specific consent, data-retention, and vendor-audit rules, critics have said, such rules are not sufficient without technology neutrality.

The concern heightens if use of AI impacts privilege, work product, and litigation disclosure. Informed consent is critical when clients provide their information to self-learning generative AI tools that could accidentally disclose information about one client's representation to another [1]. Not only is Rule 1.6 arguable violated in the use of an AI solution that is not in-house, but it also may be necessary to provide confidential information to a third entity [2]. A technology neutral rule might require lawyers to do "reasonable efforts," but it might be open to interpretation as to whether a public chatbot, enterprise model, legal-specific chatbot or a system created in-house meets that requirement. A rational use of AI must consider three important ethical concerns, that is, the ethical risk, the professional judgment and, crucially, the motivations that drive the use of automated systems by the lawyer [15]. Thus, they contend that there needs to be an explicit protection for prompts, training data, retention rules, contractual regulations, and client consent in AI ethics.

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5. Discussion

The 'hallucination and opacity objection' does not invalidate technological neutrality, since technological neutrality may be risk-sensitive. Forcing the lawyer to come to terms with verification is a better position than to simply paper over the problem with hugging. According to the already existing ABA Formal Opinion 512, lawyers are already required to scrutinize AI-generated works such as legal analysis and references that they are submitting to court [15]. *Ayinde/Al-Haroun* reached the same conclusion by stating that the critical safeguard is to check AI output against an authoritative source [23]. So, when considering the ethical issue, rather than asking "Was AI used?" the question should be "Did the lawyer check, monitor, and be accountable for the work done by AI?". This means the principles of the neutral laws are retained, while more stringent reviews may be adopted where the likelihood of the factual risk is greater with AI.

The confidentiality objection is also significant, but can be addressed with a technology neutral duty of confidentiality with tool specific safeguards. A fact-driven risk assessment using information regarding the client, matter, task and the generative AI tools utilized is already required by ABA Formal Opinion 514 [1]. Not blind neutrality, as it demands the hands of lawyers to delve into terms of use, privacy policies, access rights, data retention, security and informed consent. Moreover, Terzidou's research indicates that confidentiality can be maintained by careful and good faith outsourcing practice, informed consent of the client, and training by lawyers in 'safe use of AI' [26]. Therefore, the ethical system can be technologically neutral to the principle, but be procedural to the practice around the design of the tool if there is a confidentiality risk. This is more than just an all AI statute, and takes into account the variation among public chatbots, private AI solutions, and secure solutions from law firms.

The bias and judgment objection extends the interpretation of risk-sensitive neutrality, but does not call into question the principle itself. The concept of technological neutrality is not about concealing the bias, but rather about assessing the biased AI in the context of a lawyer's ethics in areas of fairness, competence, diligence, independence and loyalty. Because automated outputs produce disparate impacts, that is, unequal results, on different races, genders, ethnic groups, and religion, legal practitioners are inclined to question whether they can and should do so without creating a history of inequalities, particularly where AI influences strategy or access to legal services [11]. The other piece of Shope's proposal for disclosing datasets and models falls under neutral ethics as it brings in competence rather than technology ban [2]. In this regard, AI-specific audits, disclosures, training and human review are meant as a way to meet established professional obligations. So the best ethical system is one that is not interventionist, but one that adapts to technological situations.

6. Conclusion

In the ethical assessment system developed by lawyers with the help of AI, there is the principle of technological neutrality, which can be applied if you fully understand it. The supporting analysis illustrates that dutiful tasks of competence, confidentiality, supervision, communication and reasonable fees already control AI-in-aided legal work. It also reveals that neutrality future-proofs the legal profession, prevents any unfair division of beneficial tools and ensures responsibility for the human lawyer. There are strong arguments both for and against the claims of AI, since traditional tools may not produce the same risks of hallucination, opacity, confidentiality or bias or judgment. But those worries do not need to mean surrendering towards technological neutrality; they need to mean a risk-sensitive form of neutrality that applies present moral standards with AI-specific

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safeguards. Thus, lawyers should be assessed based on whether that lawyer used an AI tool appropriately, with transparency, security, fairness and under responsible human oversight, not solely by whether the lawyer used an AI tool.

References

[1] American Bar Association. (2024). Formal opinion 512: Generative artificial intelligence tools. https://www.americanbar.org/groups/business_law/resources/business-law-today/2024-october/aba-ethics-opinion-generative-ai-offers-useful-framework/

[2] Shope, M. (2021). Lawyer and judicial competency in the era of artificial intelligence: Ethical requirements for documenting datasets and machine learning models. *Georgetown Journal of Legal Ethics, 34*(3), 191-198. https://www.law.georgetown.edu/legal-ethics-journal/wp-content/uploads/sites/24/2022/08/GT-GJLE210005.pdf

[3] Walters, E. (2019, April 18). The model rules of autonomous conduct: Ethical responsibilities of lawyers and artificial intelligence. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3375045

[4] Smith v Lewis. (1975). 13 Cal.3d 349. https://law.justia.com/cases/california/supreme-court/3d/13/349.html

[5] Hagopian v Justice Administrative Commission. (2009). 18 So.3d 625 (Fla 2d DCA). https://caselaw.findlaw.com/court/fl-district-court-of-appeal/1362353.html

[6] Margolis, E. (2007). Surfing' safari – Why competent lawyers should research on the web. *Yale Journal of Law & Technology, 10*(4), 82-119. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1017022

[7] Dahl, M., Varun, M., Mirac, S., & Ho, D. E. (2024). Large legal fictions: Profiling legal hallucinations in large language models. *The Journal of Legal Analysis, 16*(1), 64–93. https://doi.org/10.1093/jla/laae003

[8] Mata v Avianca, Inc 22-cv-1461 (2023). https://law.justia.com/cases/federal/district-courts/new-york/nysdce/1:2022cv01461/575368/54/

[9] Calo, R. (2017). Artificial intelligence policy: A primer and roadmap. *Articles, 51*, 399. https://digitalcommons.law.uw.edu/faculty-articles/640/

[10] Nunez, C. (2017). Artificial intelligence and legal ethics: Whether AI lawyers can make ethical decisions. *Tulane Journal of Technology & Intellectual Property, 20*. https://journals.tulane.edu/TIP/article/view/2682

[11] Barocas, S., & Selbst, A. D. (2016). Big data's disparate impact. *California Law Review, 104*(3), 671–732. https://doi.org/10.2139/ssrn.2477899

[12] Katyal, S. K. (2019). Private accountability in the age of artificial intelligence, *66*(1), 54-61. https://escholarship.org/content/qt18n256z1/qt18n256z1.pdf

[13] Surden, H. (2019). Artificial intelligence and law: An overview. *Georgia State University Law Review, 35*(4). https://readingroom.law.gsu.edu/gsulr/vol35/iss4/8/

[14] Wendel, W. B. (2019). The promise and limitations of artificial intelligence in the practice of law. *Oklahoma Law Review, 72*(1), 21. https://digitalcommons.law.ou.edu/olr/vol72/iss1/3/

[15] Rogers, J., & Bell, F. (2019). The ethical AI lawyer: What is required of lawyers when they use automated systems? *Law, Technology and Humans, 1*(1), 80–99. https://doi.org/10.5204/lthj.v1i0.1324

[16] Koops, B.-J. (2006). Should ICT regulation be technology-neutral? *Information Technology and Law Series/Information Technology & Law Series*, 77–108. https://doi.org/10.1007/978-90-6704-665-7_4

[17] Greenberg, B. (2016). Rethinking technology neutrality. https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1206&context=mlr

[18] Shadikhodjaev, S. (2021). Technological neutrality and regulation of digital trade: How far can we go? *European Journal of International Law, 33*(4), 1221-1247. https://doi.org/10.1093/ejil/chab054

[19] Reed, C. (2007). Taking sides on technology neutrality. *SCRIPT-Ed, 4*(3), 263–284. https://doi.org/10.2966/scrip.040307.263

[20] Kamecke, U. and Torsten, K. (2008). Technological neutrality in the EC regulatory framework for electronic communications: A good principle widely misunderstood' [2008] E.C.L.R. 29(5) 330. https://koerber.jura.uni-koeln.de/sites/koerber/user_upload/Technological_neutrality_in_the_EC...Kamecke-Koerber_ECLR08_29_5__330-339.pdf

[21] Maxwell, W. J. and Marc, B. (2014). Technology neutrality in internet, telecoms and data protection regulation. *Computer and Telecommunications Law Review* 1-15. http://dx.doi.org/10.2139/ssrn.2529680

[22] Park v Kim 22-2057 (2024). https://law.justia.com/cases/federal/appellate-courts/ca2/22-2057/22-2057-2024-01-30.html

[23] Ayinde v London Borough of Haringey and Al-Haroun v Qatar National Bank (2025). EWHC 1383. https://www.judiciary.uk/wp-content/uploads/2025/06/Ayinde-v-London-Borough-of-Haringey-and-Al-Haroun-v-

DOI: 10.54254/2753-7048/2026.35694

Qatar-National-Bank.pdf
[24] American Bar Association (1993). Formal opinion 93-379: Billing for professional fees, disbursements and other expenses. https://nvbar.org/wp-content/uploads/ABA_Formal_Opinion_93-379.pdf
[25] Legg, M., & Bell, F. (2019). Artificial intelligence and the legal profession: Becoming the AI-enhanced lawyer. *Duke Law & Technology Review, 38*(2), 34–47. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3725949
[26] Kalliopi, T. (2025). Generative AI systems in legal practice offering quality legal services while upholding legal ethics. *International Journal of Law in Context*, 1–22. https://doi.org/10.1017/S1744552325000047
[27] Semmler, S., & Rose, Z. (2017). Artificial intelligence: Application today and implications tomorrow. *Duke Law & Technology Review, 16*(1), 85–99. https://scholarship.law.duke.edu/dltr/vol16/iss1/3/